

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Eric Sanders,

Plaintiff,

v.

Klein, Daday, Aretos & O'Donoghue, LLC

Defendant.

JURY TRIAL DEMANDED

No.

**COMPLAINT FOR VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES
ACT**

NOW COMES Plaintiff Eric Sanders, by and through his counsel, and alleges as follows:

INTRODUCTION

1. Mr. Sanders seeks relief due to deceptive and unfair foreclosure litigation tactics employed by the law firm of Klein, Daday, Aretos & O'Donoghue (Defendant).

2. Mr. Sanders seeks damages arising from Defendant's actions in a foreclosure lawsuit against him by Defendant in order to collect on a debt asserted by his mortgage lender in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), and the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505 *et seq.* ("ICFA"), which prohibit debt collectors from engaging in fraudulent, abusive, deceptive, and unfair practices.

PARTIES, JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367, because Mr. Sanders' state law claims arise out of the same operative facts as her claims lodged pursuant to the FDCPA.

4. Venue in this District is proper in that Defendants transact business in this District and the conduct complained of herein occurred in this District.

5. Plaintiff, Eric Sanders, is a citizen of the State of Illinois and resides in Cook County, Illinois.

6. Defendant is organized under the laws of the State of Illinois and is engaged in the business of collecting debts in Illinois. A principle purpose of Defendant's business is the collection of other parties' debts and/or enforcing security interests via instituting foreclosure lawsuits on behalf of lenders in the courts. Defendant is an enforcer of a security interest, and/or a "debt collector" within the meaning of the Fair Debt Credit Protection Act, 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

7. On May 20, 2013, Defendant filed a foreclosure lawsuit in Cook County court against Mr. Sanders, Case No. 13 CH 13052. During or about May 2015, Kelli Dudley, an attorney, appeared in the case on behalf of Mr. Sanders. She filed an appearance. **Exhibit A.** She also contacted Defendant to discuss her representation and to pose questions about an approaching court date. **Exhibit B.** She appeared in court on Mr. Sanders' behalf in May and June. At the second court appearance, she verbally objected to Defendant having contacted Mr. Sanders directly. **Exhibit C.** After that appearance, Defendant against contacted Mr. Sanders directly. **Exhibit D.** In June, Kelli Dudley again objected, in open court, to Defendant's ongoing direct contact with Mr. Sanders. Daniel Lee, who had corresponded directly with Ms. Dudley, stated he was just then receiving Ms. Dudley's previously-filed appearance and feigned lack of previous knowledge of her representation, despite a previously-filed appearance, email contact, and multiple court appearances.

8. The conduct of Defendant was willful and demonstrated reckless disregard for Mr. Sanders and for his rights.

9. As a result of Defendant's above-described conduct, Mr. Sanders was damaged; for example, he had to transmit documents to his attorney, he felt fearful that Ms. Dudley was not representing him, his relationship with his attorney was adversely and detrimentally affected, and he is entitled to statutory damages.

CAUSE OF ACTION I:

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

10. Mr. Sanders repeats, realleges and incorporates by reference each of the preceding paragraphs as if fully set forth herein in full.

11. Defendants are “debt collectors” and/or enforcers of security interests pursuant to the FDCPA, and/or routinely file foreclosure lawsuits on behalf of lenders including in order to collect debts asserted by lenders and enforce lender security interests.

12. Said Defendants, by their aforesaid conduct, violated the Fair Debt Collection Practices Act, including without limitation FDCPA prohibitions against contacting a represented party. 15 U.S.C. § 1692b.

13. As a result of Defendant's above-described violations of the FDCPA, Mr. Sanders was damaged and is entitled to actual and statutory damages pursuant to 15 U.S.C. § 1692k in an amount to be proven at trial.

**CAUSE OF ACTION II:
VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD
AND DECEPTIVE BUSINESS PRACTICES ACT
(UNFAIR AND DECEPTIVE CONDUCT)**

14. Plaintiff repeats, realleges and incorporates by reference the preceding paragraphs as if set forth fully herein.

15. The Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505 *et seq.* (“ICFA”), is designed to protect consumers against unfair, deceptive, false or misleading business practices.

16. Defendant's actions as described above were unethical, immoral, and oppressive, caused substantial injury, violated public policy, and were patently unfair in violation of ICFA.

17. Mr. Sanders was damaged as a proximate result of Defendants’ above-described unfair conduct, in violation of ICFA, and is entitled to corresponding injunctive relief allowed by the ICFA.

PRAYER FOR RELIEF

WHEREFORE, Mr. Sanders prays that this Honorable Court grant the following relief:

- a. Find that Defendants’ above-described conduct violates the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, and the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505 *et seq.*, as set forth above;
- b. Award statutory, actual and punitive damages and interest as allowed under applicable law, *e.g.*, 15 U.S.C. § 1692k, and 815 ILCS § 505/2;
- c. Award reasonable attorneys’ fees and costs as provided by applicable law; and
- d. Provide such other and further relief as may be just and proper.

JURY DEMAND

Plaintiff demands a trial by jury for all matters complained of herein that are so triable.

Respectfully submitted,

ERIC SANDERS

/s/ Kelli Dudley

By: Kelli Dudley
One of Plaintiff's Attorneys

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